

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Katharine S. Hayden
v. : Crim. No. 11-471 (KSH)
ROD PEREZ : ORDER

This matter having been opened to the Court on the United States Motion In Limine to Admit Evidence Pursuant to Federal Rule of Evidence 404(b) (doc. 24), by Paul J. Fishman, United States Attorney for the District of New Jersey (David L. Foster and Rodney C. Villazor, Assistants United States Attorney, appearing), Carl Herman, Esq., attorney for defendant Rod Perez; the Court having considered the submissions of counsel at a hearing on November 15, 2011 (doc. 27), the Court grants, in part, and denies, in part, the United States Motion In Limine for the reasons set forth on the record. Accordingly, it is hereby ORDERED that:¹

1. Vizcaino 404(b) Evidence, as specified herein, is hereby admitted pursuant to Fed. R. Evid. 404(b):
 - a. On one occasion Perez asked Ms. Vizcaino to transport a sum of money which was narcotics proceeds to New York using a Red Acura.

¹ At the hearing, the Government withdrew its motion to admit the Honda Accord 404(b) Evidence, and the Court found that Rule 404(b) did not apply to the conduct underlying the December 2010 404(b) Evidence.

2. Martinez 404(b) Evidence, as specified herein, is hereby admitted pursuant to Fed. R. Evidence 404(b):
 - a. From October 2009 through November 2009, Martinez supplied Perez with approximately 1-2 kilograms of cocaine on 3-4 occasions on consignment. Perez would then pay Martinez between \$31,000 to \$36,000 per kilogram several days afterwards;
 - b. From January 2009 through May 2009, Martinez supplied Perez with approximately 1-2 kilograms or 6-7 occasions on consignment. Perez would then pay Martinez between \$31,000 to \$36,000 per kilogram several days afterwards;
 - c. In May 2009, Martinez supplied Perez with approximately 1 kilogram of heroin with the agreement that they would split the profits. Martinez and Perez each profited approximately \$14,000, some of Perez's share consisted of auto parts from Martinez' Ford Expedition.
 - d. From February 2010 through April 2010, Martinez supplied Perez with kilograms of cocaine on 4 occasions on consignment. The first supply consisted of 3-4 kilograms, the second and third time consisted of 5 kilograms and the fourth

supply consisted of 10 kilograms. Perez would then pay Martinez between \$31,000 to \$36,000 per kilogram several days afterwards.

- e. On one occasion, Martinez asked Rod Perez to have someone bring money to New York. Perez tasked Vizcaino to bring the money to New York. Vizcaino utilized Martinez' red Acura.
3. Tennessee 404(b) Evidence is hereby admitted pursuant to Fed. R. Evidence 404(b).
4. Lynn 404(b) Evidence is hereby excluded.



HON. KATHARINE S. HAYDEN
United States District Judge

Date: December 11, 2011